

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Acceleration of Broadband Deployment,	)	
Expanding the Reach and Reducing the	)	WT Docket Nos. 13-238, 13-32
Cost of Broadband Deployment by	)	
Improving Policies Regarding Public Rights of	)	
Way and Wireless Facilities Siting	)	

**COMMENTS OF THE PENNSYLVANIA WIRELESS ASSOCIATION**

On behalf of the Pennsylvania Wireless Association (“PWA”), we are writing to provide comment on the Federal Communications Commission’s recent Notice of Proposed Rulemaking (“NPRM”). PWA is comprised of members of all sectors of the wireless industry. These individuals are committed to educating customers and public officials about our industry and the critical role it plays in Pennsylvania. Our goal is to cultivate relationships between the various members of the industry and the local communities they serve to help ensure the continued growth and development of our industry.

PWA applauds the Commission for proposing to create regulatory incentives to deploy advanced wireless broadband capability. We are particularly encouraged by the Commission’s efforts to clarify the requirements of § 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012<sup>1</sup> and thereby facilitate collocation on existing infrastructure. In enacting § 6409(a), Congress recognized that collocation provides maximum benefit for all stakeholders involved, including zoning authorities, the wireless industry, and the communities that they serve. And like Congress, several states have also recently enacted their own legislation aimed at

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<sup>1</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6409(a), 126 Stat. 156 (2012) (codified at 47 U.S.C. § 1455(a)).

encouraging collocation. Here in Pennsylvania, for example, Governor Tom Corbett signed into law the Pennsylvania Wireless Broadband Collocation Act on October 24, 2012 (“Act 191”).<sup>2</sup>

In response to the Commission’s request for comment on “whether section 6409(a) permits or warrants imposing limits on the kinds of information and documentation that may be required in connection with”<sup>3</sup> a collocation request, PWA urges the Commission to adopt a rule similar to § 3(A)(4) of Act 191, which prohibits municipalities from requiring applicants to provide justification for radio frequency need.<sup>4</sup> As the Commission noted in the NPRM, many jurisdictions continue to request extensive documentation in connection with an application that is covered by § 6409(a). § 6409(a) is based on the premise that wireless service providers are in the best position to determine whether there is a business need for an antenna location, and if a wireless service provider submits a collocation application covered by 6409(a), such a collocation application is presumptively deemed necessary. It is not uncommon, however, for the evaluation of radio frequency need at the local level to drift into an evaluation of the environmental effects of the proposed wireless signal. Such an evaluation is well outside the jurisdiction of local zoning review and is solely within the purview of the Commission. Moreover, it is a violation of § 332 of the 1996 Telecommunications Act.<sup>5</sup>

PWA therefore recommends that the Commission adopt a rule which prohibits municipalities from requiring applicants to provide information related to radio frequency emissions. This rule should further limit the scope of local land use review in connection with a covered request under 6409(a) to only those materials that are necessary to determine whether

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<sup>2</sup> Pennsylvania Wireless Broadband Collocation Act, Pub. L. 1501, No. 191, 2012 Act 191 (codified at 53 Pa. Stat. Ann. §§ 11702.1-11702.6 (West 2012)).

<sup>3</sup> Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, 78 FR 73144-02, para. 91 (proposed Dec. 5, 2013) (to be codified at 47 C.F.R. pts. 1 and 17).

<sup>4</sup> 53 Pa. Stat. Ann. § 11702.3(4) (West 2012).

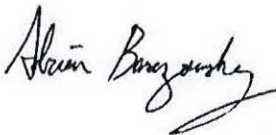
<sup>5</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. § 332).

application is an “eligible facilities request” and whether there is a “substantial change.” And in that regard, PWA submits that the Commission should adopt a rule which clarifies that “eligible facilities request” should be subject to an administrative-level review and contain only a site plan showing that: (1) the application is, in fact, an eligible facilities request; and (2) the application does not substantially change the physical dimensions of the structure.

PWA appreciates the opportunity to comment in this proceeding.

Respectfully Submitted,

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